

HOUSE JOURNAL

OF THE

IDAHO LEGISLATURE

FIRST REGULAR SESSION
SIXTIETH LEGISLATURE

**FIFTY-SECOND LEGISLATIVE DAY
WEDNESDAY, MARCH 4, 2009**

House of Representatives

The House convened at 11 a.m., the Speaker in the Chair.

Roll call showed 68 members present.
Absent and excused – McGeachin, Roberts. Total – 2.
Total – 70.

Prayer was offered by Chaplain Tom Dougherty.

The Pledge of Allegiance was led by Andres Figueroa, Page.

Approval of Journal

March 4, 2009

Mr. Speaker:

We, your COMMITTEE ON JUDICIARY, RULES, AND ADMINISTRATION, report that we have read and approved the House Journal of the Fifty-first Legislative Day and recommend that same be adopted as corrected.

CLARK, Chairman

Mr. Clark moved that the report be adopted. Seconded by Mrs. Boe. Report adopted.

Consideration of Messages from the Governor and the Senate

March 3, 2009

Mr. Speaker:

I transmit herewith [S 1088](#), [S 1114](#), [S 1115](#), [S 1022](#), [S 1110](#), [S 1078](#), [S 1121](#), [S 1051](#), as amended, [S 1053](#), as amended, [S 1017](#), as amended, as amended, and [SJR 101](#) which have passed the Senate.

WOOD, Secretary

[S 1088](#), [S 1114](#), [S 1115](#), [S 1022](#), [S 1110](#), [S 1078](#), [S 1121](#), [S 1051](#), as amended, [S 1053](#), as amended, [S 1017](#), as amended, as amended, and [SJR 101](#) were filed for first reading.

March 3, 2009

Mr. Speaker:

I return herewith [HCR 13](#) which has passed the Senate.

WOOD, Secretary

[HCR 13](#) was referred to the Judiciary, Rules, and Administration Committee for enrolling.

Report of Standing Committees

March 4, 2009

Mr. Speaker:

We, your COMMITTEE ON JUDICIARY, RULES, AND ADMINISTRATION, report that we have printed [HCR 25](#), [HCR 26](#), and [HCR 27](#).

CLARK, Chairman

[HCR 25](#) and [HCR 26](#) were referred to the Agricultural Affairs Committee.

[HCR 27](#) was referred to the Education Committee.

March 3, 2009

Mr. Speaker:

We, your COMMITTEE ON STATE AFFAIRS, report that we have had under consideration [H 201](#) and recommend that it do pass.

LOERTSCHER, Chairman

[H 201](#) was filed for second reading.

March 3, 2009

Mr. Speaker:

We, your COMMITTEE ON RESOURCES AND CONSERVATION, report that we have had under consideration [SCR 105](#), [SCR 104](#), and [SCR 106](#) and recommend that they do pass.

STEVENSON, Chairman

[SCR 105](#), [SCR 104](#), and [SCR 106](#) were filed for second reading.

March 3, 2009

Mr. Speaker:

We, your COMMITTEE ON JUDICIARY, RULES, AND ADMINISTRATION, report that we have had under consideration [H 107](#), [H 179](#), [H 184](#), and [H 168](#) and recommend that they do pass.

CLARK, Chairman

[H 107](#), [H 179](#), [H 184](#), and [H 168](#) were filed for second reading.

March 3, 2009

Mr. Speaker:

We, your COMMITTEE ON JUDICIARY, RULES, AND ADMINISTRATION, report that we have had under consideration [H 178](#) and report it back with amendments attached to be placed on General Orders for consideration.

CLARK, Chairman

[H 178](#) was placed on General Orders for consideration.

March 3, 2009

Mr. Speaker:

We, your COMMITTEE ON BUSINESS, report that we have had under consideration [H 169](#), [H 170](#), [H 188](#), [H 189](#), [H 190](#), and [H 191](#) and recommend that they do pass.

BLACK, Chairman

[H 169](#), [H 170](#), [H 188](#), [H 189](#), [H 190](#), and [H 191](#) were filed for second reading.

March 3, 2009

Mr. Speaker:

We, your COMMITTEE ON COMMERCE AND HUMAN RESOURCES, report that we have had under consideration [H 43](#) and [S 1075](#) and recommend that they do pass.

SCHAEFER, Chairman

[H 43](#) and [S 1075](#) were filed for second reading.

There being no objection, the House advanced to the Seventh Order of Business.

Motions, Memorials, and Resolutions

HOUSE JOINT MEMORIAL NO. 4 BY STATE AFFAIRS COMMITTEE

A JOINT MEMORIAL

TO THE PRESIDENT OF THE UNITED STATES, THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the House of Representatives and the Senate of the State of Idaho assembled in the First Regular Session of the Sixtieth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, Section 2, Article I, of the Constitution of the State of Idaho, sets forth the Declaration of Rights and reads as follows: "All political power is inherent in the people. Government is instituted for their equal protection and benefit, and they have the right to alter, reform or abolish the same whenever they may deem it necessary; and no special privileges or immunities shall ever be granted that may not be altered, revoked, or repealed by the legislature."; and

WHEREAS, the Tenth Amendment to the Constitution of the United States reads as follows: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."; and

WHEREAS, the Tenth Amendment defines the total scope of federal power as being that specifically granted by the Constitution of the United States and no more; and

WHEREAS, the scope of power defined by the Tenth Amendment means that the federal government was created by the states specifically to be an agent of the states; and

WHEREAS, today, in 2009, the states are demonstrably treated as agents of the federal government; and

WHEREAS, many federal mandates are directly in violation of the Tenth Amendment to the Constitution of the United States; and

WHEREAS, the United States Supreme Court has ruled in *New York v. United States*, 505 U.S. 144 (1992), that Congress may not simply commandeer the legislative and regulatory processes of the states; and

WHEREAS, Congress has inappropriately delegated its monetary authority to the private federal reserve bank, thus failing to protect and provide a sound monetary system as defined and mandated by the Constitution of the United States, forcing an unstable currency on us resulting in the past, and the current, economic perils; and

WHEREAS, a number of proposals from past and present Administrations and Congress may violate the Constitution of the United States.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Sixtieth Idaho Legislature, the House of Representatives and the Senate concurring therein, that the state of Idaho hereby claims sovereignty under the Tenth Amendment to the Constitution of the United States over all powers not otherwise enumerated and granted to the federal government by the Constitution of the United States.

BE IT FURTHER RESOLVED that this serves as notice and demand to the federal government, as our agent, to cease and desist, effective immediately, mandates that are beyond the scope of these constitutionally delegated powers.

BE IT FURTHER RESOLVED that all compulsory federal legislation that directs states to comply under threat of civil or criminal penalties or sanctions, or requires states to pass legislation or lose federal funding, be prohibited.

BE IT FURTHER RESOLVED that the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the United States, the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

HOUSE CONCURRENT RESOLUTION NO. 28 BY STATE AFFAIRS COMMITTEE

A CONCURRENT RESOLUTION

STATING LEGISLATIVE FINDINGS AND SUPPORTING THE PLANNING AND CONSTRUCTION OF NEW FIBER OR WIRELESS COMMUNICATIONS FACILITIES THROUGHOUT THE STATE.

Be It Resolved by the Legislature of the State of Idaho:

WHEREAS, the Legislature recognizes that modern advanced broadband telecommunications services are critical to the needs of the citizens of Idaho; and

WHEREAS, advanced fiber transport facilities are necessary for the provision of such services; and

WHEREAS, the communications facilities currently in place in rural areas are vital to the connectivity and communications of citizens in rural Idaho with the outside world; and

WHEREAS, more aggressive broadband is necessary for robust economic development and the current environment is a deterrent to growth; and

WHEREAS, the current communications facilities are inadequate or nonexistent in many areas of rural Idaho and can hamper public safety along with economic development; and

WHEREAS, the expedited construction of new modern fiber or wireless communications facilities is in the best interests of the citizens of Idaho; and

WHEREAS, the representatives of numerous affected local communities, as well as the Governor of the state of Idaho, strongly support such efforts and it would be in the public interest if the state of Idaho could serve as an aggregator among public and private interests to increase broadband opportunity in this state; and

WHEREAS, other states have made significant progress in forming successful public-private partnerships to bring broadband telecommunications to their remote or rural areas with programs like Connect Kentucky or Connect Indiana; and

WHEREAS, the Legislature finds that it is in the public interest to adopt this resolution.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Sixtieth Idaho Legislature, the House of Representatives and the Senate concurring therein, that we strongly support the state of Idaho in creating a business

climate to expedite the construction and installation of broadband throughout the state of Idaho.

BE IT FURTHER RESOLVED that the state of Idaho, other government agencies and broadband providers are requested to provide such support as is available to this endeavor including, expedited review and processing of any needed permits and licenses and to focus resources and coordinate with each other and commit to changing the broadband environment in this state within the next two years.

HJM 4 and HCR 28 were introduced, read the first time by title, and referred to the Judiciary, Rules, and Administration Committee for printing.

Introduction, First Reading, and Reference of Bills and Joint Resolutions

HOUSE BILL NO. 210

BY RESOURCES AND CONSERVATION COMMITTEE AN ACT

RELATING TO THE COMPREHENSIVE STATE WATER PLAN; PROVIDING THAT THE COMPREHENSIVE AQUIFER MANAGEMENT PLAN FOR THE EASTERN SNAKE PLAIN AQUIFER IS APPROVED AS A COMPONENT OF THE COMPREHENSIVE STATE WATER PLAN, TO PROVIDE THAT THE IDAHO WATER RESOURCE BOARD SHALL PREPARE AND SUBMIT TO THE LEGISLATURE FOR APPROVAL A FUNDING MECHANISM AND ANY SUBSEQUENT PROPOSED CHANGES TO THE COMPREHENSIVE AQUIFER MANAGEMENT PLAN, TO PROVIDE THAT IMPLEMENTATION OF PHASE I OF THE COMPREHENSIVE AQUIFER MANAGEMENT PLAN IS SUBJECT TO LEGISLATIVE APPROVAL OF A FUNDING MECHANISM, TO PROVIDE THAT PROVISIONS DO NOT CONSTITUTE AN OBLIGATION OF STATE FUNDS, TO PROVIDE THAT ANY STATE FUNDING SHALL BE SUBJECT TO THE AVAILABILITY OF FUNDS AND TO PROVIDE FOR THE USE OF PREVIOUSLY APPROPRIATED FUNDS; AND DECLARING AN EMERGENCY.

HOUSE BILL NO. 211

BY EDUCATION COMMITTEE AN ACT

RELATING TO RESIDENCY REQUIREMENTS FOR PUBLIC INSTITUTIONS OF HIGHER EDUCATION; AMENDING SECTION 33-3717B, IDAHO CODE, TO REVISE THE DEFINITION OF "RESIDENT STUDENT"; AND DECLARING AN EMERGENCY.

HOUSE BILL NO. 212

BY EDUCATION COMMITTEE AN ACT

RELATING TO PUBLIC CHARTER SCHOOLS; AMENDING SECTION 33-5205, IDAHO CODE, TO PROVIDE FOR NOTICE RELATING TO A PETITION FOR A NON-VIRTUAL PUBLIC CHARTER SCHOOL, TO PROVIDE FOR CERTAIN COMMENTS, TO PROVIDE FOR NOTICE TO THE PUBLIC CHARTER SCHOOL COMMISSION AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 33-5209, IDAHO CODE, TO PROVIDE FOR A HEARING, TO PROVIDE FOR NOTICE TO THE BOARD OF THE LOCAL SCHOOL DISTRICT AND TO PROVIDE FOR CERTAIN COMMENTS.

H 210, H 211, and H 212 were introduced, read the first time by title, and referred to the Judiciary, Rules, and Administration Committee for printing.

S 1088 and S 1053, as amended, by Transportation Committee, were introduced, read the first time by title, and referred to the Transportation and Defense Committee.

S 1114 and S 1115, by Health and Welfare Committee, were introduced, read the first time by title, and referred to the Health and Welfare Committee.

S 1022, by Schroeder, was introduced, read the first time by title, and referred to the Resources and Conservation Committee.

S 1110, by Health and Welfare Committee, was introduced, read the first time by title, and referred to the State Affairs Committee.

S 1051, as amended, by Judiciary and Rules Committee, was introduced, read the first time by title, and referred to the State Affairs Committee.

SJR 101, by State Affairs Committee, was introduced, read the first time by title, and referred to the State Affairs Committee.

S 1078 and S 1017, as amended, as amended, by Education Committee, were introduced, read the first time by title, and referred to the Education Committee.

S 1121, by Judiciary and Rules Committee, was introduced, read the first time by title, and referred to the Education Committee.

There being no objection, the House advanced to the Tenth Order of Business.

Second Reading of Bills and Joint Resolutions

S 1091, by Local Government and Taxation Committee, was read the second time by title and filed for third reading.

H 125, H 126, and H 127, by Agricultural Affairs Committee, were read the second time by title and filed for third reading.

S 1070, by Agricultural Affairs Committee, was read the second time by title and filed for third reading.

Third Reading of Bills and Joint Resolutions

S 1052 was read the third time at length, section by section, and placed before the House for final consideration.

At this time, the Speaker recognized Mr. Stevenson to open debate.

The question being, "Shall S 1052 pass?"

Roll call resulted as follows:

AYES – Anderson, Andrus, Barrett, Bayer, Bedke, Bell, Bilbao, Black, Block, Boe, Bolz, Boyle, Burgoyne, Chadderdon, Chavez, Chew, Clark, Collins, Crane, Cronin, Durst, Eskridge, Gibbs, Hagedorn, Hart, Hartgen, Harwood, Henderson, Higgins, Jaquet, Jarvis, Killen, King, Kren, Labrador, Lake, Loertscher,

Luker, Marriott, Mathews, Moyle, Nielsen, Nonini, Palmer, Pasley-Stuart, Patrick, Pence, Raybould, Ringo, Ruchti, Rusche, Saylor, Schaefer(Kupser), Shepherd(02), Shepherd(08), Shirley, Simpson, Smith(30), Smith(24), Stevenson, Takasugi, Thayn, Thompson, Trail, Wills, Wood(27), Wood(35), Mr. Speaker. Total – 68.

NAYS – None.

Absent and excused – McGeachin, Roberts. Total – 2.

Total – 70.

Whereupon the Speaker declared that [S 1052](#) passed the House. Title was approved and the bill ordered returned to the Senate.

[H 55](#) was read the third time at length, section by section, and placed before the House for final consideration.

At this time, the Speaker recognized Ms. Chew to open debate.

The question being, "Shall [H 55](#) pass?"

Roll call resulted as follows:

AYES – Anderson, Andrus, Barrett, Bayer, Bedke, Bell, Bilbao, Black, Block, Boe, Bolz, Boyle, Burgoyne, Chadderdon, Chavez, Chew, Clark, Collins, Crane, Cronin, Durst, Eskridge, Gibbs, Hagedorn, Hart, Hartgen, Harwood, Henderson, Higgins, Jaquet, Jarvis, Killen, King, Kren, Labrador, Lake, Loertscher, Luker, Marriott, Mathews, Moyle, Nielsen, Nonini, Palmer, Pasley-Stuart, Patrick, Pence, Raybould, Ringo, Ruchti, Rusche, Saylor, Schaefer(Kupser), Shepherd(02), Shepherd(08), Shirley, Simpson, Smith(30), Smith(24), Stevenson, Takasugi, Thayn, Thompson, Trail, Wills, Wood(27), Wood(35), Mr. Speaker. Total – 68.

NAYS – None.

Absent and excused – McGeachin, Roberts. Total – 2.

Total – 70.

Whereupon the Speaker declared that [H 55](#) passed the House. Title was approved and the bill ordered transmitted to the Senate.

[H 193](#) was read the third time at length, section by section, and placed before the House for final consideration.

At this time, the Speaker recognized Mr. Wills to open debate.

The question being, "Shall [H 193](#) pass?"

Roll call resulted as follows:

AYES – Anderson, Andrus, Barrett, Bayer, Bedke, Bell, Bilbao, Black, Block, Boe, Bolz, Boyle, Burgoyne, Chadderdon, Chavez, Chew, Clark, Collins, Crane, Cronin, Durst, Eskridge, Gibbs, Hagedorn, Hart, Hartgen, Harwood, Henderson, Higgins, Jaquet, Jarvis, Killen, King, Kren, Lake, Loertscher, Luker, Marriott, Mathews, Moyle, Nielsen, Nonini, Palmer, Pasley-Stuart, Patrick, Pence, Raybould, Ringo, Ruchti, Rusche, Saylor, Schaefer(Kupser), Shepherd(02), Shepherd(08), Shirley, Simpson, Smith(30), Smith(24), Stevenson, Takasugi, Thayn, Thompson, Trail, Wills, Wood(27), Wood(35), Mr. Speaker. Total – 67.

NAYS – None.

Absent and excused – Labrador, McGeachin, Roberts. Total – 3.

Total – 70.

Whereupon the Speaker declared that [H 193](#) passed the House. Title was approved and the bill ordered transmitted to the Senate.

Mr. Moyle asked unanimous consent that the remaining bills on the Third Reading Calendar retain their places for one legislative day. There being no objection, it was so ordered.

There being no objection, the House advanced to the Sixteenth Order of Business.

Adjournment

Mr. Moyle moved that the House adjourn until 10:30 a.m., Thursday, March 5, 2009. Seconded by Mr. Rusche. Motion carried.

Whereupon the Speaker declared the House adjourned at 11:32 a.m.

LAWRENCE DENNEY, Speaker

ATTEST:

BONNIE ALEXANDER, Chief Clerk